

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DUNCAN J. MCNEIL,

Plaintiff,

v.

PHILIP H. BRANDT, *et al.*,

Defendants.

Case No. C05-1043L

ORDER OF DISMISSAL

On June 14, 2005, the court denied plaintiff's motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(g), which precludes a prisoner who brings three or more civil actions which are dismissed as frivolous, malicious, or for failure to state a claim from bringing any other civil action *in forma pauperis* unless he is in imminent danger of serious physical injury. (Dkt. #2). Plaintiff was informed that his action could proceed only if he paid the applicable filing fee within thirty days of the date of the order. Plaintiff moved to modify the prior order, which the court construed as a motion for reconsideration. The court denied the motion for reconsideration, finding that plaintiff had not shown manifest error or new facts or legal authority, and he "fail[ed] to offer anything more than generalized assertions as to alleged imminent danger of serious physical injury." (Dkt. #4).

On August 5, 2005, plaintiff filed an Ex Parte Motion to Modify or Amend Findings

1 (Dkt. #5). Because the Ex Parte Motion is, with the exception of several additional handwritten
2 notations, identical to his prior motion for reconsideration, the Court DENIES that motion for
3 the same reasons previously identified and because the court has already ruled on the motion.
4 Plaintiff also filed an Ex Parte Motion for Findings that he is under imminent danger; not a
5 “prisoner;” not restricted by the statutory “three strikes” provision; is indigent, disabled, and
6 entitled to reasonable accommodations; and for relief from the court’s prior orders. (Dkt. #7).
7 Plaintiff’s Ex Parte Motion for Findings is a second motion for reconsideration, which is not
8 permitted under the local rules and is therefore DENIED.

9 Plaintiff was explicitly warned by order dated June 14, 2005 that he was required to pay
10 the filing fee to proceed with this action. Because he has not done so, this action is hereby
11 DISMISSED without prejudice.

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13 DATED this 17th day of August, 2005.

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17 Robert S. Lasnik
18 United States District Judge
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